IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 553 OF 2004

SHRI KUSHNOBA B.PARAB AND 16 ORS., ...Petitioners

Versus

SHRI SUKHAJI HARI PARAB(DEC.) AND ORS., ...Respondents

Mr. J. E. Coelho Pereira, Senior Advocate with Miss B. Bhise, Advocate for petitioners.

Mr. A. D. Bhobe, Advocate for the respondents No.7(a), 8(a), 8(d) to 8(h).

Coram:- R. M. LODHA, J.

Date:- 26th August, 2005

P.C.

Heard Mr. Pereira, learned Senior Counsel for the petitioners and Mr. Bhobe, learned Counsel for the contesting respondents.

2. The heirs of the defendants No.43, 44, 46 and 47 moved the application for leave of the Court for amending the written statement. The application for amendment was opposed by the plaintiffs. The Civil Judge, Jr. Division, Pernem heard the civil application and granted the written statement to be amended by the defendants No.43, 44, 46 and 47.

3. For the reasons stated in paragraphs 9 and 10 of the impugned order, it cannot be said that the trial Court has committed any error or material irregularity in exercise of its jurisdiction in granting the leave to the said defendants to amend the written statement.

4. The learned Senior Counsel for the petitioners submitted that by granting the amendment grave prejudice has been caused to the petitioners-plaintiffs since their evidence has already been closed. There

is no question of any prejudice to the plaintiffs. Obviously, in the light of the amendment of the written statement, some additional issues may have to be framed and the burden of proving the said issues shall be on the said defendants. Even if the plaintiffs' evidence has been closed, it will be open to the plaintiffs to lead evidence in rebuttal after the said defendants close their evidence.

5. No case for invocation of writ jurisdiction is made out. The writ petition is dismissed in limine.

6. In view of the fact that the suit is pending for more than two decades, the trial Court is expected to conclude the trial as expeditiously as possible, preferably within one year from the date of the receipt of this orde.

R. M. LODHA, J.